

**In the United States District Court
for the
Western District of Texas**

| | | |
|---------------------------------|---|-------------------------|
| UNITED STATES OF AMERICA | § | |
| | § | |
| v. | § | |
| | § | SA-12-CR-1078-XR |
| JASON LEVINE | § | |

ORDER

On this day came on to be considered Defendant's Notice of Appeal, wherein the Defendant objects to the Magistrate Judge's ruling to deny bond.

On December 11, 2012, a detention hearing was held in this case. The undersigned has reviewed that transcript and Defendant's brief. The Government requested that the Defendant be denied bail because during the course of a search of Defendant's residence on San Ignacio Street, 51.2 grams of crack cocaine and 2,309 grams of marijuana were found. Defendant was present during the search of the residence. Inasmuch as the Defendant is charged with possession with intent to distribute fifty grams or more of Methamphetamine, a drug offense that could result in terms of imprisonment for ten years or more, the Government argues that there exists a rebuttable presumption that no conditions of release exist that would reasonably assure the safety of the community.¹

During the detention hearing, the Magistrate Judge heard testimony from the Defendant's mother that the Defendant has lived in San Antonio, Texas his entire life and held various jobs in town as an adult. Defendant is married and has three children. On or about October 17, 2011, Defendant became involved in an altercation with a San Antonio Police Department and charged with assault upon a public servant. At the time of the detention hearing the assault case remained

¹ The Government conceded at the detention hearing that Defendant is not a flight risk.

pending. The Defendant's mother testified that the Defendant has always appeared for all court hearings regarding the assault claim.

In denying bond, the Magistrate Judge correctly noted the presumption that bail should be denied pursuant to 18 U.S.C. § 3142(e). In addition, the Magistrate Judge noted that the Defendant was on a state bond for the assault claim when he was arrested on this drug offense.

In the appeal, Defendant provides no new facts or arguments to demonstrate that the statutory presumption should not be applied. *See U.S. v. Garcia*, 68 F.3d 472 (5th Cir. 1995)(defendant failed to rebut the presumption that she is a danger); *U.S. v. Drones*, 198 F.3d 241 (5th Cir. 1999)(district court granted pretrial release and circuit court reversed for not applying section 3142).

Conclusion

The Magistrate Judge's Order of December 11, 2012 denying bail is affirmed.

SIGNED this 18th day of April, 2013.

A handwritten signature in black ink, appearing to read 'Xavier Rodriguez', with a stylized flourish at the end.

XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE